

REMARKS

Status of the Claims

Claims 1, 2, 4, 5 and 21 are pending in the present application. Claims 2 and 6-17 were previously canceled. Claims 18-20 are presently canceled. Claims 1-2 and 4 are amended to cancel references to DNA encoding amino acid variants or comprising nucleic acid variants. The claims are amended without prejudice or disclaimer and Applicants reserve the right to claim any canceled subject matter in one or more divisional or continuation applications. No new matter is entered by way of the amendment. Reconsideration is respectfully requested.

Issues under 35 U.S.C. § 112, Second Paragraph

Claims 1, 2, 4, 5, 18, 19, and 21 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, *see Office Action* pages 3-5. In particular, the Examiner states that the phrases “represented by”, or “derived from” are unclear. Applicants respectfully traverse.

Claims 18 and 19 are canceled. Accordingly, the rejection is moot in regard to these claims.

The claims are amended to cancel the allegedly unclear phrases. In particular, the phrase “represented by” is replaced with the term “of” according to the Examiner’s suggestion. Claims 1 and 4 are amended to cancel part (b). Accordingly, the phrase “derived from” is not recited in claims 1 and 4. In view of the foregoing, Applicants believe the rejection is overcome and respectfully request withdrawal.

Issues under 35 U.S.C. § 112, First Paragraph

Claim 19

Claim 19 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement, *see Office Action*, pages 5-6. Claim 19 is canceled. Accordingly, the rejection is moot.

Claims 1, 2, 4, 5, 18, 19, and 21

Claim 1, 2, 4, 5, 18, 19, and 21 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement, *see Office Action*, pages 6-11. Specifically, the Examiner states that the present application allegedly fails to support the variants of SEQ ID NO: 1 or SEQ ID NO: 2 described in the present claims. The Examiner believes that the instant application does not provide sufficient written description for the correlation between the structural features of the claimed genus of glycosyltransferase nucleic acids to distinguish the members of the genus from those which are excluded. The Examiner notes, however, that the isolated nucleic acids comprising SEQ ID NO: 1 and the nucleic acids encoding SEQ ID NO: 2 comply with the written description requirement. Applicants respectfully traverse.

Claims 18 and 19 are canceled. Accordingly, the rejection is moot in regard to these claims.

Although Applicants do not agree with the Examiner, the claims are amended in an effort to expedite prosecution to describe the subject matter that the Examiner agrees complies with the written description requirement. As noted above, claim 1, as amended, is directed to an isolated DNA comprising a nucleotide sequence encoding a polypeptide, consisting of an amino acid sequence comprising the amino acid sequence of SEQ ID NO: 2. Accordingly, part (b) of claim 1, which recites the allegedly non-supported genus, is canceled.

Claim 2, as amended, is directed to an isolated DNA, comprising the nucleotide sequence of SEQ ID NO: 1 and containing the nucleotide sequence that encodes the amino acid sequence of SEQ ID NO: 2. Accordingly, part (d) of claim 2, which recites the allegedly non-supported genus, is canceled.

As amended, claim 4 is directed to an expression vector, comprising a DNA comprising a nucleotide sequence encoding a polypeptide, consisting of an amino acid sequence comprising the amino acid sequence of SEQ ID NO: 2; or a DNA, comprising the nucleotide sequence of SEQ ID NO: 1 and containing the nucleotide sequence that encodes the amino acid sequence of SEQ ID NO: 2. Accordingly, part (b) and part (d) of claim 4, which recite the allegedly non-supported genus, are canceled.

In view of the foregoing amendments, Applicants submit that amended claims 1, 2, and 4 comply with the written description requirement. Dependent claims 5 and 21, which incorporate the subject matter of amended independent claim 4, also comply with the written description requirement. Withdrawal of the rejection is respectfully requested.

CONCLUSION

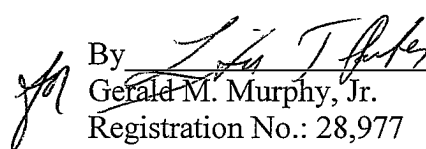
In view of the above, Applicants believe that the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact L. Parker, Reg. No. 46,046, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: FEB - 2 2010

Respectfully submitted,

By  ^{Reg 46,046}
Gerald M. Murphy, Jr.
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant